

No. 22-5787

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Jan 10, 2023

DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 GILBERT R. GHEARING,)
)
 Defendant-Appellee.)

O R D E R

Before: NORRIS, MOORE, and GILMAN, Circuit Judges.

The United States appeals from the district court’s order excluding evidence of Defendant Gilbert R. Ghearing’s alteration of medical records after he was indicted on multiple counts of Medicare and Medicaid fraud and distributing controlled substances without a legitimate medical purpose outside the usual course of professional practice. The government now moves to remand the case after obtaining an indicative ruling from the district court that it would admit the evidence if jurisdiction were returned in light of a superseding indictment adding counts for obstruction of justice and interference with a federal investigation. Ghearing has not responded, and the time to do so has passed. Fed. R. App. P. 27(a)(3).

Under Federal Rule of Appellate Procedure 12.1(b), “[i]f the district court states that it would grant the motion . . . , the court of appeals may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal.” The district court has entered a ruling

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indicating that it would grant the government's motion to admit the evidence, and the government asserts that there is no further need for appellate review.

Accordingly, the motion to remand is **GRANTED** and this case is **DISMISSED**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: January 10, 2023

Ms. Sarah Kristen Bogni

Mr. Ronald W. Chapman II

Ms. Meggan B. Sullivan

Re: Case No. 22-5787, *USA v. Gilbert Ghearing*
Originating Case No. 2:19-cr-00010-1

Dear Counsel:

The Court issued the enclosed Order today in this case. Judgment to follow.

Sincerely yours,

s/Patricia J. Elder
Senior Case Manager
Direct Dial No. 513-564-7034

cc: Ms. Lynda M. Hill

Enclosure

No mandate to issue